

## **REMARKS/ARGUMENTS**

### **Status of the Claims**

Claims 1-10, 12-18 and 20-22 are currently pending in the application. Claims 1, 12, and 20 have been amended. No new matter has been added by the amendments. No claims have been added or cancelled. Therefore, claims 1-10, 12-18 and 20-22 are present for examination. Claims 1, 12, and 20 are independent claims.

Prior to entry of this amendment, the application included claims 1-10, 12-18 and 20-22. A final office action mailed May 22, 2008 has rejected claims 1, 12, and 20 under 35 U.S.C. § 112 on the basis that there is insufficient antecedent basis for the limitation "temporary stored value fund" in the claim. Claims 1-10, 12-18, and 20-22 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,557,518 to Rosen ("**Rosen**") in view of U.S. Patent No. 5,920,847 to Kolling et al. ("**Kolling**") and Applicant Admitted Prior Arts ("**AAPA**").

### **35 U.S.C. §112 Rejection**

The Office Action has rejected claims 1, 12 and 20 on the basis that there is insufficient antecedent basis for the limitation "temporary stored value fund" in the claim.

Claim amendments have rendered this rejection moot. Applicants respectfully request the Examiner to withdraw this rejection.

### **35 U.S.C. §103 Rejection, Rosen in view of Kolling et al. and Official Notice**

The Office Action has rejected claims 1-10, 12-18 and 20-22 under 35 U.S.C. §103(a) as being unpatentable over Rosen in view of Kolling and AAPA. The Patent Office is charged with putting forth a *prima facie* showing of obviousness. Applicants believe either a *prima facie* case of obviousness has not been properly set forth in the Office Action or the amendments presented herein overcome the obviousness rejections.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, *the prior art reference (or references when combined) must teach or suggest all the claim limitations.* MPEP §2142, Original Eighth Edition, August, 2001, Latest Revision August 2006 (*emphasis added*).

Appellant believes the rejection has flaws with the above test for obviousness. Notably, the combination of Rosen, Kolling, and AAPA fails to teach each and every aspect of the amended claims.

Claim 1:

**Missing Limitation: “checking the payee identification received from the second party with the payment information”**

Claim 1 requires “checking the payee identification received from the second party with the payment information.” Neither Rosen, Kolling, nor the AAPA teaches this limitation. Indeed, Rosen describes receiving security credentials but does not discuss checking the payee identification against information received from the payor. See Rosen, col. 9, line 16 – col. 10, line 2. The parties have established relationships with the trusted agents of Rosen. See Rosen, col. 4, lines 25-27. Further, there are two trusted agents – one for the merchant and one for the payor. See Rosen, col. 4, lines 6-11. Thus, identification of the transaction is handled very differently. See Rosen, col. 4, lines 33-38.

Kolling also does not teach the limitation. Indeed, Kolling shows that the Biller does not respond to bill pay orders sent from a consumer. See Kolling, Fig. 12. Rather, Kolling teaches that the consumer establishes a relationship with the bill pay system and chooses billers. See Kolling, col. 20, lines 11-37. There is no interaction for each bill submitted. Id. Thus, Kolling cannot teach “checking the payee identification received from the second party with the payment information.”

This description is different from and does not describe claim 1. Both the payor and the payee can interface with an unassociated third account. The funds, in embodiments, are credited to the third account in a first transfer. The payee can retrieve the funds in a second

transfer that is unrelated to the first transfer. In embodiments, to identify the relationship between the first party and the second party, the payor provides information about the payee. The payee enters that information in a separate interaction to be identified by the third account as being associated with the funds in the third account. Then, the second transfer can occur from the third account. These embodiments have the advantage of using only one third account, which eliminates unneeded accounts. Further, no relationship is created between the parties and the third account. As such, the third account can be used for multiple transactions with multiple parties. The funds in the third account, in embodiments, just need to be identified.

The AAPA is unrelated to this element of claim 1. As such, the combination of Rosen, Kolling, and the AAPA fails to teach this claim limitation.

Claims 2-11:

Claims 2-11 all depend from allowable independent claim 1. Thus, claims 2-11 are all allowable over the cited prior art due, at least, to this dependence.

Claim 12:

**Missing Limitation: “initiating, substantially simultaneously with the first transfer, a second transfer from the third account to the second account, wherein-initiating the second transfer occurs before receiving notification that the first transfer has cleared wherein the second transfer create reverse float”**

Claim 1 requires “initiating, substantially simultaneously with the first transfer, a second transfer from the third account to the second account, wherein-initiating the second transfer occurs before receiving notification that the first transfer has cleared wherein the second transfer create reverse float.” Neither Rosen, Kolling, nor the AAPA teaches this limitation. Indeed, Rosen describes transfers from a first trusted agent to a second trusted agent. See Rosen, col. 4, lines 4-38. Thus, as the Examiner admits, Rosen does not describe a third account. See Office Action, p. 5. Kolling does not make a substantially simultaneous transfer that creates a reverse float. Rather, the transfers are sequential. See Kolling, col. 27, lines 16-27 (“At block 266, the payment network debits Bank C in the amount of the payment message, and credits Bank B (the biller's bank) by the same amount. Then, at block 268, Bank B credits the biller's

account, who in turn, at block 270, credits the consumer's account with the biller. Bank B might also supply further validation services to biller B.” (*emphasis added*). Thus, Kolling does not describe this limitation.

The AAPA is unrelated to this element of claim 12. As such, the combination of Rosen, Kolling, and the AAPA fails to teach this claim limitation.

Claims 13-18:

Claims 13-18 all depend from allowable independent claim 12. Thus, claims 13-18 are all allowable over the cited prior art due, at least, to this dependence.

Claim 20:

Independent claim 20 includes a similar claim element as claim 1. Thus, for reasons similar to those mentioned with regard to claim 1, claim 20 is also allowable over the cited prior art.

Claims 21-22:

Claims 21-22 all depend from allowable independent claim 20. Thus, claims 21-22 are all allowable over the cited prior art due, at least, to this dependence.

Motivation to Combine:

Applicants respectfully assert that the references Kolling and Rosen cannot be combined. Rosen includes description that specifically teaches away from the combination. Kolling provides a single settlement account. Rosen specifically teaches away from a single third account as a settlement account. Notably, Rosen states that the consumer has a trusted agent and the merchant has a trusted agent. See Rosen, col. 4, lines 33-38. These trusted agents act in proxy for the consumer and merchant. Combining Rosen to include a third account is not possible because then one trusted agent would have to act as a proxy for two parties. The parties have different requirements which would make a single proxy impossible. As such, Rosen cannot be combined with Kolling.

Applicant Admitted Prior Art:

Applicants believe that the Examiner has interpreted the law incorrectly as to Official Notice. The section cited by the Examiner states that "A general allegation that the claims define a patentable invention without reference to the examiner's assertion of official notice would be inadequate." Office Action, p. 3. Applicants specifically addressed that the reasoning for the Official Notice was not given. This specifically addressed the issue of Official Notice as required. To expedite prosecution, Applicants will not, at this time, make further argument about the Official Notice. However, Applicants reserve every right to argue this determination of Applicant Admitted Prior Art in future responses or appeals.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested. Applicants do not acquiesce to any argument not specifically addressed herein. Rather, Applicants believe any argument or rejection is addressed by the amendments and arguments presented herein.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,



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